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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,153	03/30/2004	Jean-Pierre Leblanc	2022D.PC	5423

7590 08/18/2005

Karen G. Kaiser
NATIONAL STARCH AND CHEMICAL COMPANY
P.O. Box 6500
Bridgewater, NJ 08807-0500

EXAMINER

VENKAT, JYOTHSNA A

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,153

Applicant(s)

LEBLANC ET AL.

Examiner

JYOTHSNA A. VENKAT Ph. D

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-20 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-20 and 22-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In view of new art, the finality of the rejection of the last office cation is withdrawn.

Claims 21, 29 and 30 have been canceled. Claims 17-20 and 22-28 are pending in the application and the status of the application is as follows:

Claim Rejections - 35 USC § 103

1. Claims 17-20 and 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U. S. Patents 6,264,933('933) and 5,626,840 ('840).

(1) CLAIM CONSTRUCTION

The claims are drawn to method of treating skin comprising applying a skin care composition comprising neutralized, solubilized anionic polyurethane and at least one solvent. The specification does not define the meaning for "treating skin". The specification discloses various examples drawn to cosmetic compositions and based upon the disclosure it is the examiners position that "treating skin " is equivalent to cosmetic compositions applied to skin. The specification defines "solubilized urethane " as urethane being soluble in solvent. Neutralized means having a base in the composition. Patent '840 is to hair fixative application and the patent teaches hair spray formulations and when formulations are sprayed on to hair there is contact with the skin and patent '840 is relied for this reason.

Patent '933 teaches compositions for coating keratin fibers, which is to mascara. Mascara is a skin care composition belonging to color cosmetics. Patent'933 teaches using anionic polyurethanes. See claim 1 for film-former and see claim 11 for anionic polyurethane and see solvents at col.4, lines 17-25. See col.4, lines 5-9 for the concentration of the polymer. The solvents, which are taught by the patent is also the solvents used for making the polyurethane

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solubilized in the instant application. The patent also teaches use of water- soluble polymers like polyacrylates and polymethacrylate. See col.4, lines 30-35 and 48-49. The difference between the patent and the instant application is the patent teaches film former (anionic polyurethane) dispersed in the aqueous phase and the patent does not disclose base where the polyurethane is neutralized. However, patent '840 teaches anionic polyurethanes which can be soluble or dispersible in water. See the abstract, and see col.s 2-4 for the preparation of the polyurethane and see col.5, lines 52-63 where the patent teaches that neutralization renders the polymer soluble or dispersible in water for easy formulations.

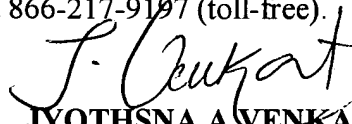
Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare skin care compositions using the anionic polyurethane for treating skin and add base to the compositions, which make the polyurethane neutralized as well as solubilized, taught by patent '840. One of ordinary skill in the art would be motivated to add base into the skin care compositions with the reasonable expectation of success that the compositions which have the base demonstrate good humidity resistance, forms a clear transparent glossy film that is easily removable with water. This is a prima facie case of obviousness.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT Ph. D whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30: 1st Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN K. PAGE can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JYOTHSNA A VENKAT Ph. D
Primary Examiner
Art Unit 1615
